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C O N F I D E N T I A L SECTION 01 OF 02 BRATISLAVA 000582

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SUBJECT: SLOVAK TELECOMS REGULATOR: I WAS FIRED FOR HONESTY

Classified By: DCM Keith A. Eddins for reasons 1.4 b and d

SUMMARY

1. (C) The head of the Slovak telecommunications authority was removed by Parliamentary vote last week, following a dispute over the contract to build the infrastructure for digital television broadcast. Branislav Macaj (PROTECT) alleges that he was ordered by the highest levels of government to award the contract to a company connected to J and T Group, which owns one broadcasting station and is a major financier of the Prime Minister's political party, Smer. Macaj refused, and he was promptly removed by the ruling coalition. If Macaj's allegations prove true, the case raises serious questions about the integrity and transparency of independent regulatory bodies and underlines the increasingly overt exercise of venal interests in Slovakia's political processes. The European Commission has promised to open an investigation. End summary.

DIGITAL TV TENDER

2. (C) Macaj recently shared with us his version of events leading up to his recall last week by Parliament. Considered together with a string of recent conversations and press reports about cabinet-level misconduct, his version of the story presents a disturbing picture of official corruption at the highest levels. At issue is the upcoming network buildout for digital broadcast television. Slovakia's digital telecommunications law specifies that a single provider will build and operate the digital broadcast network, which will host between 14 and 20 different digital television channels. The law specifies that the network provider will be selected by open tender, and that there may not be cross-ownership between the network provider and the content providers. Slovakia is obligated by the EU to switch over to digital TV broadcast by 2012.

GOVERNMENT FRIENDS NEED HELP

3. (C) According to Macaj's account, political pressure began as soon as he wrote the specifications for the tender. Minister of Transportation, Post, and Telecommunications Lubomir Vazny and others in the government made it clear to him that they wanted a sole-source arrangement with Telecom Corp., which is connected with financial services giant J and T Group, a major backer of Smer, the leading party of the ruling coalition. J and T Media Enterprises owns one of Slovakia's terrestrial broadcast networks (Televizia JOJ) and has a stake in satellite broadcaster TA-3. Macaj alleges that J and T wants to continue to hold a dominant share in the

market after the digital conversion, and thus it wants to control the network provider, which could then favor J and T's broadcasting interests. (NOTE: Jand T Banka, another holding of Jand T Group, is one of the three financial groups alleged to have benefited from a leakage of insider information regarding the central parity rate of the Slovak koruna as the country prepared for conversion to the euro. End note.) Macaj said that he received these instructions from Vazny from the beginning and had also heard constant reminders from representatives of Telecom Corp. that the company was well connected with the Prime Minister and his backers.

PM FICO STEPS IN

14. (C) The instructions and reminders eventually became an ultimatum from Vazny: choose the J and T-favored candidate or get fired. Macaj held to his original plan of holding an open tender for the network, telling his boss that as an independent regulator he could be fired only for failing to discharge the duties of his office. The tender was duly opened in August. In late September, according to Macaj, Prime Minister Robert Fico summoned Macaj to his office and told him that a deployment of digital TV that reallocated market share would be untenable before the 2010 election. He urged Macaj to delay the tender so as not to endanger his support from the interests behind the dominant market players. Macaj told Fico that he was willing to resign quietly over the matter, but that he could neither steer the business toward J and T's interests nor delay the deployment

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of the digital system. Doing the first would break the law, and doing the second would violate Slovakia's EU obligations to roll out digital by 2012.

15. (C) Macaj also told us that he was pressured through his wife's candidacy for an appointment to a judgeship. Her name was on a list of candidates advanced to the Judicial Council for a vote on the seat, and she was the only candidate not to be confirmed by the Council. Macaj claims that a friend within the Justice Ministry with direct knowledge of the case informed him that Justice Minister Harabin intervened personally to have her name withdrawn.

16. (U) By late October, the situation intensified still further. Telecom Corp filed a legal challenge to the tender, alleging that the standards put certain bidders at a disadvantage. (Telecom argued that specifying the newer MPEG4 over MPEG2 standards for the majority of the broadcast slots disadvantaged the company.) The Bratislava district court ordered the tender to be suspended; Macaj, claiming that the court does not have jurisdiction in this case, appealed the decision.

AN OFFER HE COULDN'T REFUSE...BUT DID

17. (C) At this point, in late October, Macaj was summoned to the Prime Minister's office again, this time for a meeting with Igor Federic, the Head of the Government Office (essentially the PM's chief of staff). Macaj told us that Federic offered him a choice: withdraw the tender, in which case he would be allowed to resign at the end of the year so that a successor could close the deal on J and T's terms, or be fired. If he took the deal, he would receive a four-year appointment at an embassy somewhere in Europe, and his wife would get a seat on the bench. If he refused to take the deal, he would be fired and blackballed in the legal profession in Slovakia. Macaj refused the deal but offered to resign quietly on one condition: that the government clear the complaint about the tender, which would remove any ambiguity about his own probity. Federic in turn refused the

compromise, at which point Macaj said he would have to be fired.

18. (C) The government reacted last week, by asking that Parliament recall Macaj's confirmation. The question was to be brought first to the Committee on Economic Policy, chaired by Maros Kondrot. Macaj was not invited to testify before the committee, but an opposition MP invited him to attend the session as a guest, and also invited him to speak; the committee chair allowed him only three minutes to make a statement. The committee next voted to recall him, then immediately took the matter to the floor. There, the coalition insisted on a public vote, and all coalition MPs voted for dismissal while the opposition voted against.

COMMENT: EVERYONE GOES ALONG, EXCEPT EC?

19. (C) The Macaj case raises a host of troubling questions about the integrity of regulatory and political processes in Slovakia. If Macaj is to be believed (and he is a highly regarded figure in the telecommunications industry here), the much-rumored connections between J and T and the PM's office are real, the demands and channels of influence are bold, and nearly everyone appears willing to go along. There seem to be few within the political system who are willing to take a stand, though Macaj has succeeded in interesting the only higher power available to him: the European Commission. On December 9, the Commissioner for Information Society and Media, Vivian Reding, sent a letter to the GoS expressing concern and promising an investigation. The EC has, up to now, shown little interest in investigating the frequent allegations of corruption in Slovakia. If the investigation takes place, it will be one of the first objective investigations of corrupt activity at the highest levels of the Fico government.

OBSITNIK